For good cause, based upon the terms set forth below, Panel D of the Grievance Commission of the Board of Overseers of the Bar ("the Panel") hereby issues a sanction of a public dismissal with a warning in this grievance matter pursuant to Board Regulation #51.

BACKGROUND

On November 13, 2013, the Panel reviewed Bar Counsel’s investigation of this grievance complaint matter. It had been initiated by the complaint filed against Attorney Sally Mills by Correnia Austin on behalf of Frank McFarland, a resident at her assisted living center. The focus of Austin’s complaint related to Mills’ alleged failure to timely and properly handle McFarland’s Special Needs Trust and his Social Security checks.

Upon that review, the Panel then agreed with Bar Counsel’s recommendation and so directed that based upon Mills’s apparent failure to timely and properly manage McFarland’s accounts, and subsequent delay to appropriately initiate and complete her resignation as McFarland’s Trustee, a disciplinary proceeding should take place.

ADDITIONAL FACTS AND INFORMATION

Subsequent to that review, after Mills then retained an attorney, Phillip Johnson, additional facts and information were presented to Bar Counsel and thereafter to the Panel.

As a result of that additional information, it is now apparent to the Panel – as Mills agrees and regrets – that her failure to timely and properly handle McFarland’s matters occurred due to Mills’s paralegal’s departure from employment at Mills’ law firm. That paralegal had had much more knowledge
and familiarity with the specific and peculiar nature of McFarland’s matters. Although Mills’s practice normally involves family law and probate matters, she had not previously handled a probate trusteeship similar to the McFarland case. The McFarland file had been an ongoing matter in Mills’s office for many years, and her paralegal’s sudden departure presented Mills with a voluminous and unfamiliar file to try to suddenly understand and manage. Thus, upon her paralegal’s departure from her firm, Mills was not prepared and able to immediately handle McFarland’s matter herself.

Shortly after her receipt of this grievance complaint, Mills offered to resign as McFarland’s Trustee, but she did not believe that she should resign before having a successor in place. At the time, she did not understand that Austin would be able to serve as her successor, and she was unsuccessful in finding an alternative person to serve as successor. She eventually determined that Austin was both able and willing to serve as successor trustee, and on September 12, 2013 she filed the appropriate petition to have Austin appointed as that Trustee. Further circumstances caused more delay, but Austin’s appointment as Trustee was so ordered by the Penobscot County Probate Court on January 2, 2014.

Based upon the above changed circumstances and description of Mills’s minor misconduct, pursuant to Board Regulation 51 Attorney Johnson has requested that the Panel rescind its earlier directive for a disciplinary proceeding to occur, and to instead approve and impose a public non-disciplinary sanction.

**Disposition & Sanction**

Bar Counsel confirmed to the Panel that his office has recently contacted Austin and that she confirmed that the court-ordered replacement of Mills as the new and current Trustee for McFarland addressed her concerns in this matter. Austin had also verified that although she believes certain fees charged to McFarland by the Trust Protector in the replacement trustee approval process should be Mills’s responsibility (a position which Bar Counsel has confirmed to the Panel he does not share), she otherwise has no objection to and agrees with a non-disciplinary dismissal with a warning being imposed in this matter.

Mills concedes that upon agreeing to serve as the Trustee for Frank McFarland, she was required and should have become personally familiar with the file(s) in that matter, and should not have delegated the handling and work of that matter solely to a non-lawyer assistant, her paralegal. Mills also agrees
that should she be appointed to serve as a Trustee or in any other legal capacity in the future, she will do so in accordance with the competency and diligence requirements of the Maine Rules of Professional Conduct, and will not delegate sole responsibility to a non-lawyer assistant, unlike her performance in this matter.

The Panel remains concerned by the lengthy delay Mills took to move the McFarland matter forward after her assistant’s departure from employment at Mills’s law firm, as well as by her repeated failure to properly respond to many of Bar Counsel’s requests for information in the initial investigation of this grievance complaint.

Mills agrees that her conduct in this matter was in violation of M. R. Prof. Conduct 1.1(competence); 1.3 (diligence); and 1.4(a) communication.

Based upon Mills’s contrition and the steps she has recently taken to limit or lessen the harm or injury caused to McFarland, the Panel agrees with and adopts the parties’ submitted stipulation for this matter to conclude with issuance of a dismissal with a warning upon Attorney Mills. Pursuant to M. Bar R. 7.1(e)(3)(B), the Panel finds that Mills’ misconduct was minor, there was ultimately little injury to McFarland, and Mills is unlikely to engage in similar misconduct in the future.

As a result, based upon the above-described professional misconduct, the Panel now imposes the sanction of a public non-disciplinary dismissal with a warning upon Attorney Sally N. Mills. This Report of that dismissal with a warning shall be deemed to be a hearing order of the Grievance Commission for publication on the Board of Overseers of the Bar’s website under Board Regulation 56.

Dated: 3/27/14

James A. McKenna, Esq., Chair (for the entire Panel D)